

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA**

TERRY R. TWITTY, SR.,)	
)	
)	
vs.)	1:12-cv-00985-TWP-MJD
)	
KEITH BUTTS, Warden,)	
)	
Respondent.)	

Entry and Order to Show Cause

I.

A.

The petitioner shall have **through August 15, 2012**, in which to either pay the \$5.00 filing fee for this action or demonstrate his financial inability to do so.

B.

The third claim in the petition for writ of habeas corpus is summarily dismissed pursuant to Rule 4 of the *Rules Governing Section 2254 Proceedings in the United States District Courts* because it is based on allegations involving the post-conviction relief proceeding and those allegations do not support a cognizable claim for relief under 28 U.S.C. § 2254(a). *Montgomery v. Meloy*, 90 F.3d 1200, 1206 (7th Cir.) ("[u]nless state collateral review violates some independent constitutional right, such as the Equal Protection Clause, . . . errors in state collateral review cannot form the basis for federal habeas corpus relief"), *cert. denied*, 519 U.S. 907 (1996); *Williams v. State*, 640 F.2d 140, 143-44 (8th Cir.) ("Infirmities in the state's post-conviction remedy procedure cannot serve as a basis for setting aside a valid

original conviction. . . . Errors or defects in the state post-conviction proceeding do not, *ipso facto*, render a prisoner's detention unlawful or raise constitutional questions cognizable in habeas corpus proceedings."), *cert. denied*, 451 U.S. 990 (1981).

No partial final judgment shall issue at this time as to the claim(s) resolved in this Entry.

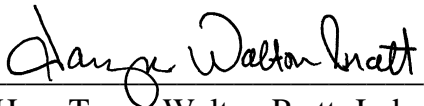
II.

The petitioner's custodian is directed to answer the allegations of the petitioner's petition for a writ of habeas corpus, and in doing so shall **show cause** why the relief sought by the petitioner should not be granted. This shall be done within **twenty (20) days** after the date this Entry is signed. The petitioner shall have **twenty (20) days** after service of such answer or return to order to show cause on him in which to reply.

A copy of this Entry and Order to Show Cause shall be sent to the Indiana Attorney General through a Notice of Electronic Filing ("NEF") generated by the court's CM/ECF case management system. The Indiana Attorney General has previously been provided with a copy of the habeas petition itself.

IT IS SO ORDERED.

Date: 07/24/2012


Hon. Tanya Walton Pratt, Judge
United States District Court
Southern District of Indiana

Distribution:

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